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1 RECORD OF ORAL HEARING

2
3 UNITED STATES PATENT AND TRADEMARK OFFICE

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5
6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES

8
9
10 Ex parte SEBASTIAN A. JEAN, DON FRANCIS PURPURA,
11 and NEIL Y. IWAMOTO

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14 Appeal 2008-1660
15 Application 09/853,767
16 Technology Center 2100

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19 Oral Hearing Held: May 22, 2008
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22
23 Before JAMES D. THOMAS, ALLEN R. MACDONALD, and ST. JOHN
24 COURTENAY III, Administrative Patent Judges.

25
26 ON BEHALF OF THE APPELLANTS:

27
28 MICHAEL GUZNICZAK, ESQUIRE
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33 The above-entitled matter came on for hearing on Thursday, May 22,
34 2008, commencing at 1:05 p.m., at The U.S. Patent and Trademark Office,
35 600 Dulany Street, Alexandria, Virginia, before Ashorethea Cleveland,
36 Notary Public.
37

1 JUDGE THOMAS: Have you been to the Board before?

2 MR. GUZNICZAK: No.

3 JUDGE THOMAS: All right. Just a couple of ground rules. You can
4 use that clock as a guide for your 20 minutes of time.

5 MR. GUZNICZAK: Okay.

6 JUDGE THOMAS: And you can proceed at any time. We're kind of
7 familiar with the case. So, you can judge how much you want to say and
8 what you want to say based on that familiarity.

9 JUDGE MacDONALD: Do you have a business card so that we can
10 get the spelling of your name correct for the record?

11 MR. GUZNICZAK: I'm not sure if I have one on me right now.

12 JUDGE MacDONALD: If not, then at the end give the spelling to the
13 reporter. Thank you.

14 MR. GUZNICZAK: Sure. No problem.

15 I have prepared some demonstratives that are just combinations of
16 different figures from the invention. I have prepared some smaller versions.
17 Is it okay if I bring up the copies?

18 JUDGE THOMAS: You can present to us the copies, the small
19 copies.

20 MR. GUZNICZAK: Okay.

21 JUDGE MacDONALD: I assume from what you just said these are
22 from the figures?

23 MR. GUZNICZAK: Yeah. They're just, we've blown up certain parts
24 and highlighted certain parts.

1 JUDGE THOMAS: We're kind of familiar with all of that anyway.
2 So, we don't really need them; but if it will help your presentation, we'll
3 accept them.

4 MR. GUZNICZAK: Okay.

5 (Pause.)

6 MR. GUZNICZAK: Sorry for all this set-up time here.

7 JUDGE MacDONALD: Gentlemen, do you want to move over to this
8 side. I'm sorry. We have guests today from the Solicitor's Office, since
9 these are public hearings.

10 MR. GUZNICZAK: Yes.

11 (Pause.)

12 MR. GUZNICZAK: Is it okay if I move this up a bit?

13 JUDGE MacDONALD: We're fine.

14 MR. GUZNICZAK: Okay. Is it all right if I go ahead and get
15 started?

16 JUDGE MacDONALD: Yes. Your time.

17 MR. GUZNICZAK: Okay. The appellant's invention is directed to a
18 mimic device. These are first and second network interface cards.

19 These first and second network interface cards are important because
20 they define two networks, internal network ten and local network 14.

21 More specifically, they allow the mimic device to isolate these target
22 devices on the local network.

23 This is part of the way that the mimic device mimics these legacy
24 devices on the local network and provides functionality. These devices
25 interact.

1 We have lots of argument to state in our appeal brief. What we would
2 really like to focus on for purposes of today is two features that we think are
3 missing from claims one and 33, and two critical features.

4 Just for purposes of conciseness, I was going to focus on the language
5 from claim one which is a bit broader.

6 So, in particular, there are two critical features which provide the
7 mimic device with the ability to mimic these legacy or target devices on a
8 local network. First is a receiving feature in which the mimic device
9 20 -- and we've shown some internals here, too, as well.

10 Mimic device 20 receives a message, an incoming message from a
11 client device on the external network to address to the network address of a
12 target device on a local network.

13 So, again, the client is sending a message addressed to the network
14 address of this target device but it's actually the mimic device which receives
15 it. We refer to this in the specification as intercepting that message.

16 The second key feature is a determination feature in which the mimic
17 device 20 determines whether it has an application module which is
18 configured to process the functionality requested by that message.

19 So, for instance, let's say the client eleven is requesting secure printing
20 and is requesting it from this printer. Mimic device 20 receives that message
21 and then it says: Okay. Do I have an application module which is
22 configured to do secure printing, or e-mail printing or whatever the client is
23 requesting.

24 And so, in that way, the mimic device sort of acts as a middle man
25 and can perform functionality that the client is requesting on behalf of these
26 target devices.

1 And so, there are a couple of important advantages to this invention.
2 First, the client doesn't need to be concerned about the abilities of the target
3 device because the mimic device is acting on their behalf.

4 So, in fact, as to the client device, the client doesn't even know that
5 the mimic device is there.

6 The second advantage I really want to focus on is that you can
7 upgrade the functionality of these devices on the local network simply by
8 upgrading the application modules in the mimic device 20 because the
9 mimic device 20 is going to receive that message and say: Do I have an
10 application module which is configured to handle this functionality?

11 So, again, the receiving feature and the determination feature are I
12 guess what I would really like to focus on today.

13 So, according to claim one, the first feature is receiving an incoming
14 message from the client device residing on the external network with
15 incoming messages addressed to the network address with target device on
16 the local network; and the examiner relies on Sugiura for this feature.

17 So, I have prepared sort of a combination of different figures from
18 Sugiura. This is Sugiura's networking figure one. It shows both the client
19 and the server side. This is the data transmitted in between the client and the
20 server; and I will go into these in more detail. This is the processor in the
21 print server and then this is sort of some key text highlighted.

22 So, briefly, Sugiura is directed to using the http protocol to avoid
23 firewalls and in particular for the purpose of Internet printing.

24 For example, firewalls such as 22 and 32 ordinarily block direct
25 printing, as Sugiura says, and in particular may block an IP addressing; and

1 so, what Sugiura proposes is to use the http protocol to avoid the message
2 being blocked by the firewall.

3 So, basically and briefly, in Sugiura a client puts together or creates a
4 print data DT, including print data and print header, or an http header, and
5 transmits to the server. The server moves the header and then transmits to a
6 target printer; for example, this printer 2-P.

7 So, again briefly, the client sends data plus a header. The server looks
8 at the header and says: Okay. This is where the data is going relative to the
9 printer.

10 In the final rejection, the examiner took the position that this sort
11 of -- this transmitting routing to the printer corresponds to the claimed
12 receiving feature.

13 However, as we see, Sugiura can't disclose the receiving feature. First
14 of all, the message isn't addressed to the network address of the target printer
15 but rather is addressed to the print server.

16 In addition, in fact, Sugiura is actually intended to sort of avoid that
17 sort of direct address. If a message from the client was directly addressed to
18 the network address of this target printer then Sugiura's firewall would block
19 it. Sugiura's firewall blocks IP addresses or IP protocol addresses.

20 So, in fact, Sugiura is actually trying to get around that situation by
21 using http which firewalls ordinarily let through.

22 So, just real briefly, I wanted to go over this text in particular,
23 paragraph 97, with just a little bit more detail.

24 This is Sugiura's local area, network two; and the c-jack program and
25 the server is activated when the terminal device designates it in a manner
26 such as yoi.com.

1 So, this instigates a program that demands this print data and header
2 from the client and acquires the data and the header from the client; removes
3 the header and looks at the header and says, "Okay. Who is this data going
4 to?" and then send it to that target device; for example, printer 2-B.

5 So, just quickly to close regarding Sugiura and the first feature: Not
6 only is Sugiura not sending a message addressed to the network address or
7 target device, it also seems to be directed specifically to getting around that
8 situation or addressing the situations caused, the problems caused when you
9 directly address a target device.

10 JUDGE MacDONALD: Excuse me. Isn't it directly addressing the
11 computer?

12 MR. GUZNICZAK: I'm sorry.

13 JUDGE MacDONALD: Isn't it directly addressing the server? Sorry.
14 Print server. I mean, how is it sending a message if it's not directly
15 addressing at least some target device?

16 MR. GUZNICZAK: It's addressing the print server but not the target
17 device.

18 JUDGE MacDONALD: Yeah. But your target device is quite broad.
19 Why would the print server not be considered a target device that's
20 addressed in this manner?

21 MR. GUZNICZAK: For a couple of reasons. I guess the first
22 position we take is that the examiner equated the target device with this
23 printer. If you make the server also the target device --

24 JUDGE MacDONALD: My understanding is that the examiner is
25 relying on this reference merely to teach the functionality of a client device

1 addressing a network, target network device and indicating that that's known
2 to do.

3 MR. GUZNICZAK: Right.

4 JUDGE MacDONALD: Is it really anything beyond that that this
5 reference is being relied upon for?

6 MR. GUZNICZAK: Well, the key is that it's addressed to the
7 network address of the target device; and so, the message from -- the mimic
8 device that we're claiming receives a message addressed to the network
9 address of the target device whereas in Sugiura that's not happening. The
10 target device such as the printer or the server is being addressed using http.
11 And so, it's very important that it's the actual network address of the target
12 device.

13 JUDGE MacDONALD: Okay. I follow what you're saying.

14 JUDGE COURTENAY: Isn't http -- if you're using an URL, for
15 example, let's translate it to an Internet protocol address, a domain name
16 server as used on the Internet. So, it's still an address; isn't it?

17 MR. GUZNICZAK: Well, the http protocol can be translated or can
18 be -- you can look through a table and say what's on my local network and
19 then route it to that device; but that's exactly --

20 JUDGE COURTENAY: If you're trying to type in an URL in a
21 browser, it's translated by a domain name server to an actual IP, Internet
22 protocol address.

23 MR. GUZNICZAK: Right.

24 JUDGE COURTENAY: Which is a network address.

25 MR. GUZNICZAK: But the message that you're sending isn't
26 addressed in the first instance to the network address of that target device.

1 In other words, it's got to resolve that address. The firewall -- in other
2 words, particularly in Sugiura's case, you would be blocked if you try to
3 send -- I want to send a message directly to network address, you know, one,
4 two, three, four.

5 JUDGE MacDONALD: I don't see the word directly in your claim.

6 MR. GUZNICZAK: I'm sorry. Addressed to the network address
7 of --

8 JUDGE MacDONALD: The reason I'm asking is, you said it doesn't
9 have to be resolved and I'm trying to figure out why that resolving is
10 precluded based on the claim.

11 MR. GUZNICZAK: I guess, again, we were trying to focus on -- you
12 can take an http address and you can get it through looking through look-up
13 tables or seeing what's on the network down to a network address but that's
14 not the same as addressing -- I mean, in particular, for the reasons that
15 Sugiura gives itself. You're going to get blocked if you try to send
16 something directly to the network address of a target device. So, we'd say
17 there's a difference there because of that.

18 I mean, that's one of the reasons why it's an advantage in Sugiura's
19 case to use http because you won't be blocked in the way that directly
20 addressing the printer with an IP address would.

21 JUDGE THOMAS: Is it your position that an http address, a URL, if
22 you will, is not a network address? Is that your position?

23 MR. GUZNICZAK: Yes.

24 JUDGE MacDONALD: Okay. I was about to ask basically the same
25 point. How is the claim prohibited from being indirectly -- from indirectly

1 addressing? And you're saying that it's because the network address requires
2 direct addressing?

3 MR. GUZNICZAK: Yeah; and we're referring to the -- yeah. And I
4 think in claim 33, we actually specifically say the IP address. That was part
5 of the reason we amended it to say to the network address, was to sort of
6 point the examiner to that we're going directly to -- this is going directly to
7 the target device. The client is saying, I'm sending one to one, two, three,
8 four; and that's all the client knows.

9 JUDGE THOMAS: You're getting close to your time limit. So --

10 MR. GUZNICZAK: Okay.

11 JUDGE MacDONALD: It doesn't take long by nature.

12 MR. GUZNICZAK: Just briefly, I'll try and address Cooper. Do you
13 know -- I'm sorry. I lost the --

14 JUDGE MacDONALD: Yes. We're familiar with Cooper.

15 MR. GUZNICZAK: Okay. So, briefly, I'll just -- once they receive
16 this message, we're determining whether an application module on the
17 computing device is a configured process to functionality.

18 So, as we see it, Cooper turns this determination on its head. Cooper
19 is determining whether the hardware can support the requested functionality;
20 and it defers to the hardware actually. It defers to the hardware when it
21 makes this determination.

22 In fact, there are a couple of sections in Cooper. Cooper says: Look.
23 We're trying to maintain exploitation of the hardware devices.

24 So, Cooper is always deferring to the hardware first; and so, that's
25 different from the claim-determining step in which a mimic device

1 determines if an application module residing in the computing device is
2 configured to process functionality.

3 JUDGE MacDONALD: There's an importance to this because?

4 MR. GUZNICZAK: Because of the difference in what's provided. In
5 the mimic device you can upgrade the functionality of these devices -- the
6 devices on the local network, by just simply upgrading the application
7 modules.

8 Whereas, as we see it in Cooper: Let's say you have a printer with an
9 old functionality or an obsolete functionality. You're not going to get any
10 improved functionality by changing Cooper's intelligent-printer driver
11 because it's always going to defer to the printer and say, "Printer do you
12 have it?" first.

13 So, I guess briefly I'll move on to the third and fourth features. I don't
14 want to run over time; and I'll try and argue these together just to save time.

15 Based on the determination on whether one of these application
16 modules can process a requested functionality, we have a couple of different
17 options. If it can process the requested functionality, the mimic
18 device -- let's say it's the external network interface card -- will route it up to
19 that application module. Whereas if it's not, if these application modules are
20 not configured to process functionality, it will pass it on to the target printer.

21 And so, again, the main focus of our argument in these features would
22 be that since Cooper doesn't disclose a determination, Cooper also can't
23 disclose doing things based on that determination.

24 In addition, even if you take the identity of who's who out of the
25 equation, only for purposes of argument because that's one area -- one of our
26 main focuses is on who's who -- the redirection seems to be backward.

1 In other words, Cooper simulates something if a printer is not
2 configured whereas we're simulating if an application module is configured.
3 It's obscured a bit because of the back-and-forth between the devices but it's
4 also sort of a difference in what happens.

5 Briefly, if I still have time, I'd just like to briefly go over claim 33.

6 JUDGE THOMAS: You have a couple of minutes.

7 MR. GUZNICZAK: So, claim 33 includes features along the lines of
8 those recited in claim one but actually includes more detail.

9 In particular, claim 33 specifies discovering all of these target devices
10 on the local network by detecting messages from the devices, creating a rule
11 and a rules table for each of the discovered target printers which contains the
12 IP address of the target printer and indicating whether an application module
13 is configured to perform a function on behalf of the printer.

14 And so, it's just a little bit more detail into the how the mimic device
15 goes into setting these things up and sort of standing in the way and being
16 able to mimic functionality for these devices.

17 If there are no questions, I think it's probably not enough time to go
18 into KRS.

19 JUDGE THOMAS: All right. Any questions from the panel?

20 JUDGE MacDONALD: No. Thank you.

21 JUDGE THOMAS: All right. Thank you.

22 MR. GUZNICZAK: Thank you very much.

23 JUDGE THOMAS: Are we free to keep these?

24 MR. GUZNICZAK: Sure.

25 (Whereupon, at approximately 1:20 p.m., the proceedings were
26 concluded.)

Appeal 2008-1660
Application 09/853,767

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